

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-197770

DATE: June 17, 1980

MATTER OF: Freund Precision, Inc.

DIGEST:

[Protest Against] Cancellation of negotiated procurement--on basis that only unit price received, approximately 2.4 times previous unit price, was unreasonable--was not improper.

Freund Precision, Inc. (Freund), protests the cancellation of request for proposals No. NOO383-80-R-0012, a small business set-aside issued by the Navy Aviation Supply Office, Philadelphia, for 45 units of a certain hose assembly. Freund also protests the subsequent award to Aeroquip Corporation on the ground that the award was made without Freund having an opportunity to compete. We deny Freund's protest for the reasons stated below.

Freund submitted the only offer at \$480 per unit. In view of the prior procurement history for this item and the Government estimate of \$192 per unit for the procurement, the Freund unit price was determined to be unreasonable, and the solicitation (as well as the small business set-aside restriction) was canceled in November 1979. The procurement history showed that since 1975 none of these item purchases had involved unit prices above \$200, with the exception of one purchase of four units at \$230.17 per unit. The most recent purchase of the item--167 units--had been made on January 31, 1979, at a unit price of \$104.08. The contracting officer concluded that neither inflation nor the number of units being procured would account for the difference between the January contract price and the price submitted by Freund.

In view of this determination, the contracting officer requested and received from the Aeroquip Corporation, the awardee of the January contract, a quote of \$177.32 each for 45 units. He did not contact Grumman Aerospace--the only other prior

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supplier of this item--because he felt that the firm would have no interest in supplying the small number of units. And he did not contact Freund because he did not expect Freund to lower its price by more than one-half. Accordingly, a purchase order totalling \$7,979.40 was issued to the Aeroquip Corporation in conformance with the small purchase procedures set forth in section 3, part 6, of the Defense Acquisition Regulation (DAR) as mandated by DAR § 3-203.2 (1976 ed.).

Freund protests the cancellation of the solicitation because, in its view, when the 1975 price from Grumman Aerospace of \$230.17 plus inflation is considered, a \$480 unit price is hardly unreasonable. Freund notes that in an unrelated prior Air Force procurement, its price of \$14,526.60 was rejected because it did not acknowledge an amendment and award was made at \$25,355. Freund wonders why there the Air Force did not consider the higher price unreasonable and why the Navy considered its price here to be unreasonable. Finally, Freund protests the award to the Aeroquip Corporation on a sole-source basis.

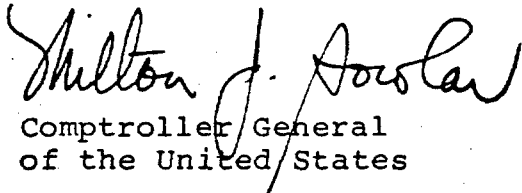
It is provided in DAR § 2-404.1(b)(vi) that a formally advertised solicitation may be canceled where all the otherwise acceptable bids received are at unreasonable prices. We have held that this principle applies also to negotiated procurements and that the contracting officer has broad discretion in determining whether the prices received are to be considered unreasonable. His determination will only be rejected by our Office if the exercise of that discretion is shown to have been abused. See Semiconductor Equipment Corporation, B-187159, February 18, 1977, 77-1 CPD 120, aff'd, May 4, 1977, 77-1 CPD 301; Amdahl Corporation, B-191133, October 18, 1978, 78-2 CPD 284. We cannot conclude that the contracting officer's determination represents an abuse of discretion, since the Freund quote was approximately 2.4 times greater than each price upon which an award had been previously made and the highest award price of \$230.17 per unit was submitted on a purchase of only four units. See Stewart-Thomas Industries, Inc., B-196295, March 5, 1980, 80-1 CPD 175

(where the protester's bid price was about 61 percent higher than the highest bid price received in past procurements, we held that it was not improper for the contracting officer to cancel a solicitation based on unreasonable prices when the procurement history indicated that bid prices were unreasonable and past prices obtained were still valid).

The complete circumstances of the prior unrelated Air Force procurement are not in this record and, in any event, the Air Force contracting officer's determination would not control the outcome of the instant matter. Our Office will not object to such determinations when they are reasonably based. Here, we have no basis to object to the Navy's determination that the protester's price is unreasonable.

Finally, we see no basis to question the contracting officer's determination not to contact Freund concerning the procurement after cancellation of the solicitation because (1) under the canceled solicitation, Freund had just submitted its best price at \$480 per unit, and (2) even now, Freund has not stated that it would or could lower its unit price below Aeroquip's quote of \$177.32.

Accordingly, the protest is denied.


Acting Comptroller General
of the United States